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EXHIBIT 8
DATE 2-13-2009
HB HB 419

To: House Judiciary Committee
From: Kelsen Young, Executive Director
Re: HB 419 – Restore Fault to Dissolution of Marriage
Date: February 13th, 2009

Good morning, Mr. Chairman and Members of the House Judiciary Committee. For the record, my name is Kelsen Young and I am the Executive Director of the Montana Coalition Against Domestic and Sexual Violence. We are a statewide membership organization representing direct service programs from across the state that provide services to victims of domestic and sexual violence. We rise in opposition to House Bill 419 sponsored by Representative McGillvray.

The testimony from Amy Hall from Montana Legal Services Association has clearly outlined the issues and problems with this legislation in regards to victims of domestic violence and we agree with and strongly support her testimony. I would like to elaborate on several important points that give us concern.

First, “no-fault” divorce as it is commonly referred to has been in place in Montana since 1975. The State has spent many years and a great deal of money developing and adjusting the system as needed and this proposal would take us back in time to the mid 1970’s. We do not need to go back to those days. The current system already places a great deal of care and emphasis on the needs of the children. Guardian Ad Litem, CASA Volunteers, etc. provide support and influence and are there to protect the interests of the children and to determine what is in their “best interest”.

Second, this proposal requires couples counseling for those parties seeking dissolution because they have decided the marriage is “irretrievably broken”. In this instance both parties have to be agreeing to the dissolution. Experts in the field of domestic violence have clearly found that couples counseling is inappropriate for relationships where domestic violence and the exertion of power and control tactics by the abusive partner are present. It is not clear to me whether or not under this proposal those individuals who have to prove “fault” in the divorce by indicating that domestic violence is present in the relationship may also be required to attend couples counseling at some point.

In addition, on page 4 line 5, the language says that the “respondent has physically or sexually assaulted or abused the petitioner or a child of one or both of the parties” as one of the reasons to find “fault”, but yet nowhere in the bill are these terms defined. There aren’t references to other existing statutes and it is unclear what is required to prove these types of abuse. As Amy indicated clearly in her testimony, this will provide for an undue burden on victims of domestic violence and make them have to jump through more hoops in order to break free from their abuser and could put them at a much greater risk of further and escalating violence.

Finally, the changes in regards to how the courts would determine division of marital property, maintenance, and child support would be terrible. The arguments about money alone in these types of proceedings would cause great concern and would further exacerbate the problems in the relationship and have serious negative consequences for children.

Let’s not go back in time to the mid-70s and erase all of the important ways in which we have developed the marital dissolution system. I strongly urge you to oppose HB 419.